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March 8, 2017

VIA ELECTRONIC CASE FILING

Hon. Sarah Netburn, Magistrate Judge
United States District Court, Southern District of New York
500 Pearl Street
New York, NY 10007

Re: In Re: Terrorist Attacks on September 11, 2001, 03-md-1570-GBD-SN
Bauer, et al. v. Al Qaeda Islamic Army, 02-cv-07236-GDB-SN

Dear Magistrate Judge Netburn:

I have reviewed this Court's March 3, 2017 Order which seeks information as to the plaintiffs' intentions for briefing on the issue of functionally equivalent relatives as described in Your Honor's October 14, 2016 Report and Recommendation issued in connection with the *Hoglan* action (ECF No. 3451, ECF No. 3363). I am writing to advise the Court that my firm will not submit a brief on this issue, and will not be providing additional information as to claims for functionally equivalent relatives as described below.

On October 17, 2016, my firm filed a motion for partial final judgment seeking solatium damages on behalf of a number of immediate family members of the victims of the September 11, 2001 terror attacks (ECF No. 3364). Included in this motion were requests for an award of solatium damages for Dayna Spordone, step-daughter of decedent Milton Bustillo, Daniel Saslow, step-father of decedent Joseph Keller, and John Foster, step-father of decedent Noel Foster. On October 20, 2017, Your Honor issued an Order directing counsel to revise and refile a proposed Order to remove any reference to step relatives described as functionally equivalent relatives in the Court's October 14, 2016 Report and Recommendation (ECF No. 3368). The Court stated it would require counsel to submit a detailed Declaration from each of these individuals setting forth the nature of their relationship with the deceased, and the impact their deaths have had on them prior to its consideration of their requests for solatium damages.

Since that time, we have learned that John Foster is represented by Motley Rice. I have spoken with representatives from the firm and advised them that we will take no further action in securing a Declaration from Mr. Foster to support his claim for solatium damages. We have been advised by Mr. Saslow that he does not wish to seek an award for solatium damages in connection with the death of Joseph Keller. Finally, in accordance with the Court's framework



set forth in the October 14, 2016 Report and Recommendation, Ms. Spordone would not qualify as a functionally equivalent step-daughter.¹

Accordingly, my firm will not brief this issue, and will not submit additional information pertaining to the solatium losses suffered by these three individuals.

Respectfully,

A handwritten signature in blue ink that reads 'Dm Capone'.

Dorothea M. Capone

DMC:cml

cc: Plaintiffs' Executive Committee (via ECF)

¹ Although this Court's framework for consideration of a step-child's solatium claims excludes consideration of Ms. Spordone's request, she was recognized by the September 11th Victim Compensation Fund as a financially dependent relative and received an award from this Fund.